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Document Description: Electronic Terminal Disclaimer - Filed

PTO/SB/26
U.S. Patent and Trademark Office
Department of Commerce

Electronic Petition Request	TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT
Application Number	10682293
Filing Date	09-Oct-2003
First Named Inventor	Eric Teller
Attorney Docket Number	Auto-Journal-US
Title of Invention	Method and apparatus for auto journaling of continuous or discrete body states utilizing physiological and/or contextual parameters

☒ Filing of terminal disclaimer does not obviate requirement for response under 37 CFR 1.111 to outstanding Office Action

☒ This electronic Terminal Disclaimer is not being used for a Joint Research Agreement.

Owner	Percent Interest
BodyMedia, Inc.	100 %

The owner(s) with percent interest listed above in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent number(s)

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as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included with Electronic Terminal Disclaimer request.

☐ I certify, in accordance with 37 CFR 1.4(d)(4), that the terminal disclaimer fee under 37 CFR 1.20(d) required for this terminal disclaimer has already been paid in the above-identified application.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☒ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

☒ An attorney or agent registered to practice before the Patent and Trademark Office who is of record in this application

Registration Number 42959

☐ A sole inventor

☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

☐ A joint inventor; all of whom are signing this request

☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature

/David W. Okey/

Name

David W. Okey

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.